

CONRAIL®

215451



December 28, 2005

VIA FACSIMILE & OVERNIGHT DELIVERY

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street NW
Washington, DC 20423-0001

ENTERED
Office of Proceedings

DEC 28 2005

Part of
Public Record

**Re: STB Finance Docket No. 34813, New York New Jersey Rail
LLC and New York Cross Harbor Railroad Terminal Corp. -
Transaction Within a Corporate Family Exemption**

Dear Secretary Williams:

This letter is submitted on behalf of Consolidated Rail Corporation ("Conrail") in the above-referenced proceeding.

In paragraph 3 of their Verified Notice of Exemption Petitioners state that the New York Cross Harbor Railroad Terminal Corporation ("NYCH") "owns and operates railroad tracks and facilities at Greenville, Jersey City, NJ." In paragraph 4 of their Verified Notice of Exemption, Petitioners state that "NYCH will transfer all or substantially all of its railroad assets...and intangible assets required for railroad operations to [New York New Jersey Rail LLC]".

What Petitioners do not disclose is that NYCH occupies (and operates at) Greenville by virtue of a lease with Conrail, who owns the real property. The lease between Conrail and NYCH prohibits NYCH from assigning or otherwise transferring its interest in the lease to any entity without first obtaining Conrail's approval and provides that any attempt to do so shall be void. Petitioners also fail to disclose that Conrail negotiated a settlement of past disputes with NYCH. As part of that settlement, NYCH gave Conrail a right of first refusal and right of first purchase to purchase or otherwise acquire some or all of the assets of NYCH in the event of a change of control of NYCH or in the event NYCH decides to sell substantially all of its assets.

Conrail only became aware of the instant Notice of Exemption this morning. While the proposed transaction may be a legitimate use of the applicable class exemption, Conrail has concerns about the effect it may have on the fulfillment of the obligations

The Hon. Vernon A. Williams
December 28, 2005
Page 2

owed it under the Greenville lease, which lease NYCH may not assign without Conrail's consent. Conrail is also concerned that use of the class exemption will strip Conrail of its rights of first purchase and first refusal. Accordingly, Conrail requests that the Board stay the effectiveness of the Notice of Exemption for thirty days in order to afford Conrail an adequate opportunity to investigate and evaluate this transaction and, if necessary, file a response.

Respectfully submitted,

David C. Ziccardi/rd

David C. Ziccardi
Associate General Counsel

C: John D. Heffner, Esq. (via facsimile and overnight delivery)
STB Office of Compliance (via facsimile and overnight delivery)
STB Office of Proceedings (via facsimile and overnight delivery)
Jonathan Broder, Esq.
John Enright, Esq.